



#12

16 MAY 2003

Oliff & Berridge  
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In re Application of :  
BRUNO MOUGIN et al. :  
Application No.: 09/701,243 :  
PCT No.: PCT/FR99/01247 :  
Int. Filing Date: 27 May 1999 :  
Priority Date: 27 May 1998 : DECISION  
Attorney Docket No.: 107976 :  
For: MÉTHOD FOR AMPLIFYING AT :  
LEAST ONE SPECIFIC NUCLEOTIDE :  
SEQUENCE AND PRIMERS USED :

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371. This is also responsive to applicant's status inquiry received on 06 May 2003.

On 27 May 1999, applicant filed international application No. PCT/FR99/01247, which claimed a priority date of 27 May 1998 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 December 1999.

On 27 September 1999, a Demand was filed with the International Preliminary Examining Authority electing the United States. As a result the deadline for payment of the basic national fee was extended to expire in 30 months from the priority date, or on 27 November 2000.

On 27 November 2000, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, a copy of the international application, an English translation thereof, sequence listing, preliminary amendment and the basic national fee. On 28 December 2000, applicant filed an executed declaration and the surcharge for filing the declaration after the thirty month period.

On 01 March 2001, applicant filed a Sequence Listing and a supplemental Sequence Listing, which is located in the application file (2/2)

On 01 October 2001, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration in compliance with 37 CFR 1.497 was required. Applicants were also advised that the nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821-1.825 because the copy of the sequence listing in computer readable form had not been submitted. Applicant were required to provide an initial or substitute computer readable form (CRF) of the "Sequence Listing", within two months of the mail date, with extensions of time available under 37 CFR 1.136(a).

On 09 October 2001, applicant responded to the Form 905 indicating that the declaration was filed on 28 December 2000 and the Sequence listing, as filed, was submitted on 01 March 2001. Applicant submitted copies of these papers along with the USPTO date-stamped postcard receipts providing evidence of the submissions.

On 22 January 2002, applicant filed a second response to the Form 905 with a submission identical to the 09 October 2001.

Thereafter, on 07 May 2002, a Notification of Defective Response was mailed to applicant indicating that the computer readable form that was filed had been found to be damaged and/or unreadable as indicated on the CRF Diskette Problem Report, which was attached. On 06 June 2002, applicant filed a replacement paper copy and computer readable copy of the Sequence Listing.

On 18 November 2002, a second Notification of Defective Response was mailed to applicant along with a copy of the Raw Sequence Listing Error Report dated 05 August 2002.

On 18 December 2002, applicant replied to the Notification of Defective Response accompanied by a Supplemental Preliminary Amendment indicating that a paper copy and computer-readable copy of the Sequence Listing was attached..

On 14 February 2003, a Notification of Abandonment was mailed to applicant indicating that the application was abandoned which incorrectly stated the reason for the abandonment was the "failure to timely reply to the Decision on Petition mailed on 01 October 2001".

### DISCUSSION

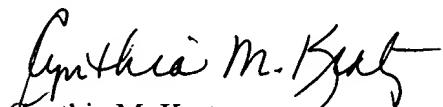
A review of the application file reveals that all of the 35 U.S.C. 371 requirements have been met, upon submission of the executed declaration on 28 December 2000. The Raw Sequence Listing was entered on 15 April 2003.

The Notification of Abandonment was erroneously issued on 14 February 2003 and will be **VACATED**. The 35 U.S.C. 371 date is **28 December 2000**.

### CONCLUSION

The Notification of Abandonment mailed 14 February 2003 is hereby **VACATED**.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.



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